

40th SESSION – second part / 40^e SESSION - deuxième partie

MONITORING OF THE APPLICATION OF THE EUROPEAN CHARTER ON LOCAL SELF-GOVERNMENT IN AZERBAIJAN

PART I - Speaking Notes by Bernd VOHRINGER (6 minutes approximately)

Dear members,

I am glad to present, together with my co-rapporteur, a report on the implementation of the Charter in Azerbaijan that we have prepared together with Stewart DICKSON, further to remote meetings in Azerbaijan we had from 23 to 25 February this year. It also contains a draft recommendation and resolution which are submitted to your adoption.

The Republic of Azerbaijan is a unitary state. Only the Nakhchivan Autonomous Republic has a special legal-administrative status within the country. The state administration is a centralised system under the president, in whom the entire executive power is vested. It is divided into central and local executive authorities, which exist in 63 districts (*rayons*), towns, settlements and villages.

The country ratified the European Charter of Local Self-Government in 2002, without ratifying Article 4.3, 7.2, 9.5, 9.6 and 10.3.

We should welcome that, after the last report, Azerbaijan ratified Article 10.3 in 2013 which provides the right to cooperate between municipalities and their counterparts in other States. It was noted, however, that such cooperation would in any case require permission by the state authorities of Azerbaijan.

We should also note that Azerbaijan has not signed yet the Additional Protocol to the Charter on the right to participate in the affairs of a local authority.

I must say that despite some commendable improvements in a few areas, such as, in particular, in ensuring more transparent mechanisms to hire municipal staff and for the payments to and by municipalities, that are now all done electronically, and some slight improvements in legislation, the structural and more significant recommendations remain valid.

The Constitution provides that local executive authority is exercised by the heads of local executive bodies.

Local executive authorities are territorial branches of the state administration in regions, cities and city districts and are run by chief executives who are appointed and dismissed by the President of Azerbaijan, who also determines the powers of these bodies.

In practice, we got the impression that responsibilities of municipalities are even more limited than they are according to legislation, and at best are related to the maintenance of municipal roads, cemeteries, parks and some aspects of the delivery of social care that are not covered by the central government.

Municipalities in most cases do not have adequate capacity, training or knowledge to carry out those limited responsibilities prescribed by law.

Although the Constitution empowers municipalities to enact legal instruments that are binding on citizens and legal entities in their territory, these are not listed as statutory instruments forming part of Azerbaijan's legal system. Therefore, it is not clear whether municipalities have regulatory powers or not.

As it was stressed in the previous monitoring report, despite formal financial autonomy, municipalities are still in an extremely weak financial position. Since local executive authorities are not autonomous bodies but are part of the central government system also with regard to local revenues and spending, the ratio of central government's local and centralised revenues and expenditures is not an indicator of the real level of fiscal decentralisation, which is therefore even more limited in practice than it appears in the budget.

As regard the situation in Baku, it should be noted that despite recurring calls from the Congress to change the system, the capital city is still not governed by a democratically elected municipal government accountable to its population.

In addition, the division of powers and duties between the various players is not entirely clear. The effectiveness of the municipal level of government is further impaired by the absence of land maps of the capital city. This problem, which affects also other municipalities, is particularly acute in Baku, as the unclear boundaries between state-owned and municipal-owned land in practice further reduces the municipal revenues, especially from taxes on advertisements.

We regret that despite the conclusions and recommendations made by the Council of Europe, and by the Congress in particular in 2012, the authorities of Azerbaijan have not revised the relevant provisions of the Constitution and the Law on the Status of Municipalities in order to ensure a better compliance with the principles laid down in the Charter.

A letter sent in 2013 by the Congress to national authorities of Azerbaijan, offering dialogue and assistance on how to possibly address the issues raised in the Congress recommendations, has not been followed up. However I am still confident that we will find a way to strengthen our cooperation, in particular through our colleagues from the national delegation, because in fact this is why we are members of the Congress, to share and to cooperate between us.

My co-rapporteur will speak more in detail about the proposed draft recommendation and resolution.

Thank you for your attention.